

REMARKS

This is in response to the outstanding Non-Final Office Action dated April 1, 2009.

I. First Preliminary Amendment

Applicants thank Examiner Worrell for his telephonic message of June 3, 2009. Applicants respectfully wish to bring to the Examiner's consideration the First Preliminary Amendment dated May 13, 2005. In the First Preliminary Amendment, the claims were amended so that there were no multiple dependant claims. Applicants respectfully request that the First Preliminary Amendment be entered and that the objections under 37 CFR § 1.75(c) be removed. A copy of the stamped Return Receipt Postcard is attached hereto as Exhibit A, as *prima facie* proof that the First Preliminary Amendment was received by the Patent Office.

II. Status of the Claims

Claims 1, 18 and 19 are amended. Claims 6 and 10 are cancelled. Claims 43 to 50 were newly presented in the First Preliminary Amendment noted above and are present in the application. The objection to the claims are addressed by the entry of the First Preliminary Amendment as noted above. Claims 1-5, 7-9 and 11-50 are currently pending in this application. No new matter is added.

III. Status of the Specification

The title of the specification is objected to as being generic and not descriptive of the invention as claimed. Applicants amend the title and respectfully request the objection be withdrawn.

IV. Claim Rejections Under 35 U.S.C. § 103

Claims 1–17, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,401,498 to Fujiwara (“*Fujiwara*”) in view of Italian magazine SCI FONDO, or in the alternative, Italian magazine SCI FONDO in view of *Fujiwara*.

As amended claim 1 recites:

A garment comprising a piece of a stretchable warp-knitted fabric comprising a non-elastic yarn arranged in a 1×1 tricot structure, and an elastic yarn arranged in a looping structure, *wherein at least one of an upper garment edge and a lower garment edge of the piece is an edge without hem finishing when left as cut* (emphasis added).

Fujiwara discloses a warp-knitted fabric from which garments can be obtained without accompanying sewing process. Portions of the garment, such as the sleeves, are marked and capable of being cut so that the garment more closely conforms to the wearer’s proportions (see *Fujiwara*, col. 2, lines 14-39). *Fujiwara* does not teach or suggest that at least one of an upper garment edge and a lower garment edge of the piece is and edge without hem finishing when left as cut. Instead, *Fujiwara* shows stitching lines 14-1, 14-2, and 14-3 running along an outline of the garment (*Fujiwara*, col. 3, lines 54-57 and Figure 1). *Fujiwara* also explicitly provides a hemline 14C at the bottom of the garment (*Fujiwara*, col. 3, lines 60-67). Thus, *Fujiwara* does not teach or suggest all the elements of claim 1.

SCI FONDO discloses garments for cross-country skiing (*see generally*, SCI FONDO). The garment allows for maximum breathability and the elimination of perspiration. SCI FONDO does not cure the deficiency of *Fujiwara* in that it too does not teach or suggest that at least one of an upper garment edge and a lower garment edge of the piece is and edge without hem finishing when left as cut. Because neither *Fujiwara* nor SCI FONDO teach or suggest all the elements of claim 1. Applicants request that the rejection be withdrawn and that pending claims 1-5, 7-9, and 11-50 be passed to allowance.

V. Double Patenting Rejection

Claims 1-17, 38, and 39 are rejected for non-statutory double patenting over the claims of U.S. Patent No. 7,051,556. In response, Applicants request that the objection be held in abeyance since all the claims of record in the application have not been considered. Once the double patenting rejection is finalized on the pending claims, Applicants will submit a Terminal Disclaimer directed to the '556 patent.

CONCLUSION

It is respectfully submitted that each of the presently pending claims are in condition for allowance and notification to that effect is requested. The Examiner is invited to contact the Applicants' representative at the below-listed telephone number if it is believed that the prosecution of this application may be assisted thereby.

Dated: June 10, 2009

Respectfully submitted,

By 

Louis J. DelJuidice

Registration No.: 47,522

DARBY & DARBY P.C.

P.O. Box 770

Church Street Station

New York, New York 10008-0770

(212) 527-7700

(212) 527-7701 (Fax)

Attorneys/Agents For Applicant